



**MCI Telecommunications  
Corporation**

1801 Pennsylvania Avenue N.W.  
Washington, DC 20006  
202 887 2551  
Fax: 202 887 2204  
Internet: 0006343251@MCIMAIL.COM

Mary L. Brown  
Director  
Corporate Rates &  
Federal Regulatory Analysis

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JAN 11 1996

FEDERAL COMMUNICATIONS  
COMMISSION

11  
January 8, 1996

William Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street NW  
Washington, D.C. 20554

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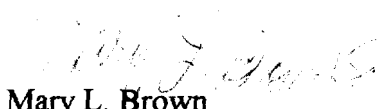
Re: Price Cap Performance Review for Local Exchange Carriers; Treatment of Video Dialtone  
Services Under Price Caps, CC Docket No. 94-1

Dear Mr. Caton:

On behalf of MCI Telecommunications Corporation, attached you will find a pleading in the  
above-captioned proceeding. The text of the document bears the date that it would have been  
filed at the Commission, had the agency not been closed.

This is to notify you that the document is being filed and served today, the first business day on  
which the Commission has re-opened.

Sincerely,

  
Mary L. Brown

No. of Copies rec'd at 4  
DATE





**MCI Communications  
Corporation**

1801 Pennsylvania Avenue, NW  
Washington, DC 20006  
202 372 1600

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JAN 11 1996  
FEDERAL COMMUNICATIONS  
COMMISSION

December 27, 1995

Mr. William Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, NW  
Washington, DC 20554

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Re: Price Cap Performance Review for Local Exchange  
Carriers; CC Docket No. 94-1; Treatment of Video  
Dialtone Services Under Price Caps

Dear Mr. Caton:

Enclosed herewith for filing are the original and four (4) copies of MCI Telecommunications Corporation's Reply Comments, regarding the above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI Reply Comments furnished for such purpose and remit same to the bearer.

Sincerely,

  
Mary L. Brown

Enclosure  
MLB



Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED

JAN 11 1994

FEDERAL COMMUNICATIONS COMMISSION

In the Matter of	)	
	)	
Price Cap Performance Review	)	CC Docket No. 94-1
for Local Exchange Carriers;	)	
Treatment of Video Dialtone Services	)	
Under Price Caps	)	

DOCKET FILE COPY ORIGINAL

MCI'S REPLY TO THE OPPOSITIONS TO  
PETITION FOR RECONSIDERATION

MCI Telecommunications Corp. (MCI) respectfully submits its reply to the pleadings filed by the Regional Bell Operating Companies (RBOCs) opposing petitions for reconsideration filed by MCI and Cox Enterprises, Inc. (Cox). The RBOCs have not made even a minimally persuasive case for the use of a "de minimis" exception that would permit video dialtone costs and revenues to be included in the calculation of local exchange carrier earnings. In addition, there appears to be a growing industry consensus on the need for creating a video dialtone category in Part 69.

Only two of the RBOCs were able to identify a costing process that would be required immediately if the Commission were to abandon the "de minimis" exemption. Bell Atlantic admits that carriers will have to track costs internally, but argues that carriers will not be required to allocate those costs through the Part 69 process.<sup>1</sup> NYNEX states that by having the

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<sup>1</sup> Bell Atlantic Opposition at 3-4.

“de minimis” exception, LECs need not conduct sharing/low-end adjustments.<sup>2</sup>

The cost allocation processes identified by these RBOCs are so minimally burdensome that it is difficult to fathom why there should be a “de minimis” exemption at all. Since the carriers already are subject to cost reporting requirements,<sup>3</sup> and will be subject to cost allocation methods resulting from this proceeding, it is hardly burdensome to apply the cost allocation methods required by the Commission to the data already collected. The actual calculation of the numbers themselves is not by any stretch of the imagination a major undertaking.

Even if the RBOCs could show a minimal burden, that minimal burden would have to be weighed against the potential for cross-subsidy in a price cap system that continues to rely on sharing as a back-stop mechanism. As AT&T has calculated in its comments in the Further Notice, a “de minimis” standard such as the one proposed by the Commission could result in a reduction to the sharing obligation of as much as \$105 million a year.<sup>4</sup>

It is no answer to say that the local exchange carriers have elected a productivity factor that does not require sharing.<sup>5</sup> That election was not universal, and can be amended each year.

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<sup>2</sup> NYNEX Opposition at 2, n.4.

<sup>3</sup> Reporting Requirements on Video Dialtone Costs and Jurisdictional Separations for Local Exchange Carriers Offering Video Dialtone Services, Memorandum Opinion and Order, DA 95-2026, AAD No. 95-59, released September 29, 1995.

<sup>4</sup> AT&T Comments, filed October 27, 1995 at 6.

<sup>5</sup> Bell Atlantic Opposition at 3; SWBT Opposition at 4-5.

Even without sharing, accurate earnings data that displays the effect of video dialtone systems is critical to the Commission's monitoring and oversight of the industry. The Commission should not compromise its ability to understand what effect this new offering is having on telephone company operations and profitability.

Several of the RBOCs also point to various cases that have apparently used the "de minimis" standard to resolve a particular problem. None of these cases cited by the RBOCs as precedential have any meaningful application here. The first is the use of a rate of return buffer zone.<sup>6</sup> A rate of return buffer zone is used to determine when a local exchange carrier should be forced to pay refunds to customers. In effect, it creates a zone of reasonableness for earnings, determining what earnings are reasonable and what are overearnings. It has absolutely nothing to do with cost allocations, and the need to keep accurate record of costs and revenues.

The second "precedent" for "de minimis" cited by the RBOCs is more inventive, but no more persuasive. SWBT cites the Part 64 exception for incidental activities, which is subject to a ceiling of 1 percent of total revenues.<sup>7</sup> However, video dialtone is not incidental. No LEC can seriously maintain that they plan to build video dialtone systems that will produce no more than 1 percent of revenues. Nor, using AT&T's analysis cited supra, can one maintain that \$105 million lost in sharing is incidental.

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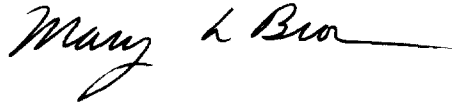
<sup>6</sup> NYNEX Opposition at 3. Pacific Opposition at 3.

<sup>7</sup> SWBT Opposition at 4.

With respect to MCI's arguments that the Commission erred in not ordering revisions in Part 69 to create a video dialtone category, only SWBT has mounted a challenge. SWBT states that the Commission has addressed this by requiring a Part 69 waiver, and by imposing the financial segregation requirements. However, even Bell Atlantic -- whose views on video dialtone have championed the cause of minimal regulation -- has conceded that a Part 69 category is needed. <sup>8</sup>

MCI requests that the Commission grant its Petition for Reconsideration in the above-captioned proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mary L. Brown", with a long horizontal flourish extending to the right.

MCI TELECOMMUNICATIONS CORP.

Mary L. Brown  
1801 Pennsylvania Avenue NW  
Washington, D.C. 20006  
(202) 887-2551

Dated: December 27, 1995

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<sup>8</sup> Bell Atlantic Comments, filed October 27, 1995. In an Appendix containing its proposed rules, Bell Atlantic specifies changes to Part 69 which include creating a specific Part 69 category.

## **CERTIFICATE OF SERVICE**

**I, Stan Miller, do hereby certify that copies of the foregoing Reply Comments were sent via first class mail, postage paid, to the following on this ~~08~~ 11 day of January 1996.**

**Regina Keeney\*\*  
Chief, Common Carrier Bureau  
FCC  
Room 500  
1919 M Street, N.W.  
Washington, DC 20554**

**Kathleen Levitz\*\*  
Deputy Chief, Common Carrier  
Bureau  
FCC  
Room 500  
1919 M Street, N.W.  
Washington, DC 20554**

**Geraldine Matise\*\*  
Chief, Tariff Division  
FCC  
Room 518  
1919 M Street, N.W.  
Washington, DC 20554**

**Richard Metzger\*\*  
Deputy Chief, Common Carrier  
Bureau  
FCC  
Room 518  
1919 M Street, N.W.  
Washington, DC 20554**

**David Nall  
Deputy Chief, Tariff Division  
FCC  
Room 518  
1919 M Street, NW  
Washington, DC 20554**

**Doug Sloten\*\*  
FCC/CCB  
Room 544  
1919 M Street, N.W.  
Washington, DC 20554**

**David Sieradski\*\*  
FCC/CCB  
Room 544  
1919 M Street, N.W.  
Washington, DC 20554**

**International Transcription Service\*\*  
Room 246  
1919 M Street, N.W.  
Washington, DC 20554**

**James S. Blaszak  
Levine, Blaszak, Block &  
Boothby  
Telecommunications Users  
Committee  
1300 Connecticut Ave., NW  
Suite 500  
Washington, D.C. 20036-1703**

**Carolyn C. Hill, Esq.  
Federal Regulatory Counsel  
Alltel Service Corporation  
655 15th St., NW  
Suite 220  
Washington, D.C. 20005**

**Debra Buruchian  
Vice President/General Manager  
ATX Telecommunications Services  
101 South 39th Street  
Philadelphia, PA 19104**

William Page Montgomery  
Economics & Technology, Inc.  
One Washington Mall  
Boston, MA 02108  
Economic Consultant for Ad Hoc  
Telecommunications Users  
Committee

Roy Morris  
Allnet Communication  
Services, Inc.  
1990 M Street, N.W., Ste. 500  
Washington, D.C. 20036

Francine J. Berry  
David P. Condit  
Judy Sello  
Room 3244J1  
295 North Maple Avenue  
Basking Ridge, New Jersey 07920  
Attorneys for American  
Telephone and Telegraph Company

Frank Panek  
Michael S. Pabian  
Ameritech Services Inc.  
2000 W. Ameritech Center Drive  
Hoffman Estates, IL 60196-1025

Michael E. Glover  
Michael D. Lowe  
Lawrence W. Katz  
The Bell Atlantic Telephone  
Companies  
1710 H Street, NW - 8th Floor  
Washington, D.C. 20006

Ellen S. Deutsch, Esq.  
Citizens Utilities Company  
of California  
1035 Placer Street  
Redding, CA 96001

Richard M. Tettlebaum  
Citizens Utilities Company  
1400 16th St., NW, Suite 500  
Washington, DC 20036

Robert J. Aamoth  
Reed, Smith, Shaw & McClay  
1200 18th Street, N.W.  
Washington, D.C. 20036  
Attorney for CompTel

Philip L. Verveer, Esq.  
Sue D. Blumenfeld, Esq.  
Wilkie, Farr & Gallagher  
1155 21st Street, N.W.  
Suite 600  
Washington, D.C. 20036

William D. Baskett, III  
Thomas E. Taylor  
Frost & Jacobs  
2500 Central Trust Center  
201 East Fifth Street  
Cincinnati, OH 45202  
Attorneys for Cincinnati Bell  
Telephone Company

Genevieve Morelli  
General Counsel  
Competitive Telecommunications  
Association  
1140 Connecticut Avenue N.W.  
Suite 220  
Washington, D.C. 20036

Robert C. Mackichan, Jr., Esq.  
Vincent L. Crivella, Esq.  
General Services Administration  
18th & F Streets, N.W., Rm. 4002  
Washington, D.C. 20405

Gail L. Polivy  
GTE Service Corporation  
1850 M Street, N.W., Ste. 1200  
Washington, D.C. 20036



Richard McKenna, W11L15  
GTE Service Corporation  
P.O. Box 152092  
Irving, TX 75015-2092

Ellyn Elise Crutcher  
Counsel for Consolidated  
Network, Inc.  
121 S. 17th Street  
Mattoon, IL 61938

James U. Troup  
Arter & Hadden  
1801 K Street, N.W., Ste. 400K  
Washington, D.C. 20006  
Attorney for Iowa Network  
Access Division

Darrell S. Townsley, Esq.  
Special Asst. Attorney General  
Illinois Commerce Commission  
P. O. Box 19280  
Springfield, IL 62794

Brian R. Moir  
Fisher, Wayland, Cooper  
& Leader  
1255 23rd St., N.W., Suite 800  
Washington, D.C. 20037-1125  
Attorneys for International  
Communications Association

James D. Heflinger, Esq.  
Vice President/General Counsel  
LiTel Communications, Inc.  
4650 Lakehurst Court  
Dublin, OH 43017

Andrew D. Lipman  
Russell M. Blau  
Swidler & Berlin, Chartered  
3000 K Street, N.W.  
Washington, D.C. 20007  
Attorneys for Metropolitan  
Fiber Systems, Inc.

Peter A. Rohrbach  
Gerald E. Oberst, Jr.  
Hogan & Hartson  
555 13th Street, N.W.  
Washington, D.C. 20004  
Attorneys for Advanced  
Telecommunications Corp.

Paul Rodgers, Esq.  
Charles D. Gray, Esq.  
National Association of  
Regulatory Utility  
Commissioners  
P.O. Box 684  
Washington, D.C. 20044

David Cosson, Esq.  
L. Marie Guillory, Esq.  
National Telephone Cooperative  
Association  
2626 Pennsylvania Avenue N.W.  
Washington, D.C. 20037

Lisa Zaina  
OPASTCO  
21 Dupont Circle, Suite 700  
Washington, D.C. 20036

Stanley J. Moore  
Pacific Bell  
1275 Pennsylvania Avenue N.W.  
Washington, D.C. 20004

Richard A. Askoff  
National Exchange Carrier  
Association, Inc.  
100 South Jefferson Road  
Whippany, NJ 07981

Patrick A. Lee  
Joseph DiBella  
120 Bloomingdale Road  
White Plains, New York 10605  
Attorneys for  
New York Telephone Company  
and New England Telephone  
and Telegraph Company

Daryl L. Avery, Esq.  
Peter G. Wolfe, Esq.  
Public Service Commission  
of the District of Columbia  
450 Fifth Street, N.W.  
Washington, D.C. 20001

Michael J. Shortley, III  
Rochester Telephone Corp.  
180 South Clinton Avenue  
Rochester, NY 14646

Douglas Hanson  
President  
Southern Pacific Telecom  
120 Howard Street, Suite 550  
San Francisco, CA 94105-1620

E. William Kobernusz  
Vice President - Regulatory  
The Southern New England  
Telephone Company  
227 Church Street - 15th Flr.  
New Haven, CT 06510-1806

M.B. Gray, President/Owner  
Telecommunications  
Opportunities Research  
335 Wild Horse Circle  
Boulder, CO 80304

Larry Van Ruler, Esq.  
Tallon, Cheesman and Assoc., Inc.  
3817 Betty Drive, Suite H  
Colorado Springs, CO 80907

Leon M. Kestenbaum  
H. Richard Juhnke  
1850 M Street N.W.  
Suite 1100  
Washington, D.C. 20036  
Attorneys for  
US Sprint

Robert C. Atkinson  
Senior Vice President  
Regulatory & External Affairs  
Teleport Communications Group  
One Teleport Drive, Suite 301  
Staten Island, NY 10311

Laura D. Ford  
Lawrence E. Sarjeant  
James T. Hannon  
1020 19th Street, N.W.  
Suite 700  
Washington, D.C. 20036  
Attorneys for  
U S West Communications, Inc.

Bob F. McCoy  
Joseph W. Miller  
Randee F. Charney  
Williams Telecommunications  
Group, Inc.  
Suite 3600, P.O. Box 2400  
One Williams Center  
Tulsa, Oklahoma 74102

William J. Free  
Richard C. Hartgrove  
Thomas J. Horn  
1010 Pine Street, Rm. 2114  
St. Louis, Missouri 63101  
Attorneys for  
Southwestern Bell  
Telephone Company

Durward D. Dupre, Esq.  
Richard C. Hartgrove  
Southwestern Bell Telephone Co.  
1010 Pine Street, Rm. 2114  
St. Louis, MO 63101

Advanced Telecommunications  
Corporation  
Brian K. Sulmonetti  
1515 South Federal Highway  
Suite 400  
Boca Raton, FL 33432

Komar Services Inc.  
Martha E. Miles  
835-189th St.  
Hammond IN 46324

Great Plains Communications Inc.  
S. Michael Jensen  
Vice President and General  
Manager  
1635 Front Street  
P.O. Box 500  
Blair, Nebraska 68008

LDDS Communications, Inc.  
Catherine R. Sloan  
Vice President, Federal  
Affairs  
1825 Eye Street, N.W. Suite 400  
Washington, D.C. 20006

BellSouth Corporation &  
BellSouth  
Telecommunications, Inc.  
Rebecca M. Lough  
4300 Southern Bell Center  
675 West Peachtree St., NE  
Atlanta, GA 30375

Cathey, Hutton & Assoc. Inc.  
Lawrence P. Keller  
Directory-Federal  
Regulatory Services  
3300 Holcomb Bridge Road  
Suite 286  
Norcross, GA 30092

Duke Power Company  
J. Mike Surratt  
P.O. Box 10006  
Charlotte, N.C. 28201-1006

Compuserve Incorporated  
Randolph J. May  
Richard S. Whitt  
Sutherland, Asbill & Brennan  
1275 Pennsylvania Avenue, NW  
Washington, DC 20004

Thomas R. Friedman  
Karen L. Friedman  
3402 W. Lakeshore Drive  
Crown Point, IN 46307

Henry D. Levine  
Ellen G. Block  
D.E. Boehling  
LEVINE, LAGAPA & BLOCK  
Counsel for Anheuser-Busch, et al  
1200 Nineteenth Street, N.W.  
Suite 602  
Washington, DC 20036

Lora Janasser  
10809-D NE 48 Cir  
Vancouver, WA 98682

Metromedia Communications  
Corporation  
Richard Heitmann, Esq.  
Angel M. Cartagena, Esq.  
1 Meadowlands Plaza  
East Rutherford, NJ 07073

Midwest Power Products &  
Controls, Inc.  
Michael J. Burvan, President  
151 Briarwood Dr.  
Schereville, IN 46375

Missouri Public Service  
Commission  
Colleen M. Dale  
Senior Counsel  
P.O. Box 360  
Jefferson City, Missouri 65102

Public Service Commission of  
South Carolina  
Gary E. Walsh  
111 Doctors Circle  
Post Office Drawer 11649  
Columbia, South Carolina 29203

Pascal Communications  
Pascal A. Marco  
16604 E. Fairfax Drive  
Fountain Hills, AZ 85268-2848

People of the State of  
California and the Public  
Utilities Commission of the  
State of California  
Peter Arth, Jr., Edward W. O'Neill  
Ellen S. Levine  
505 Van Ness Ave.  
San Francisco, CA 94102

Rochester Telecom Systems Inc.  
220 S. Broadway  
P.O. Box 235  
Rochester, MN 55903-0235

Schneider Communications, Inc.  
Don Detampel, President  
P.O. Box 2475  
3061 S. Ridge Road  
Green Bay, WI 54306-2475

United Telephone System  
Companies  
W. Richard Morris  
P.O. Box 11315  
Kansas City, MO 64112

Williams Telecommunications  
Group, Inc.  
Peter A. Rohrbach  
Karis A. Hastings  
Hogan & Hartson  
555 Thirteenth St., NW  
Washington, DC 20004

United Telephone System  
Companies  
Jay C. Keithley  
1850 M Street, NW  
Suite 1100  
Washington, DC 20036

Linda Kent  
Associate General Counsel  
USTA  
1401 H Street, NW Suite 600  
Washington, DC 20005-2136

WITel, Inc.  
John C. Gammie  
Suite 3600  
P.O. Box 2400  
One Williams Center  
Tulsa, Oklahoma 74102

Charles H. Helein  
General Counsel  
HELEIN & WAYS DORF  
Attorney for America's  
Carriers Telecommunications Assn.  
1850 M Street, N.W.  
Suite 550  
Washington, DC 20036

Lufkin-Conroe Telephone Exchange  
Dale Green  
P.O. Box 909  
321 North First  
Lufkin, TX 75902-0909

The Lincoln Telephone and  
Telegraph Company  
Robert A. Mazer, Attorney  
Nixon, Hargrave, Devans & Doyle  
One Thomas Circle N.W. Suite 800  
Washington, DC 20005

Nynex Telephone Companies  
Edward R. Wholl  
Joseph Di Bella  
120 Bloomingdale Road  
White Plains, NY 10605

Pacific Bell  
Nevada Bell  
James P. Tuthill  
Nancy C. Woolf  
140 New Montgomery St.  
Room 1523  
San Francisco, CA 94105

The Southern New England  
Telephone Company  
Anne U. MacClintock  
227 Church Street, 4th Fl.  
New Haven, CT 06506

Minnesota Equal Access Network  
Services, Inc.  
Benjamin H. Dickens, Jr.  
Gerard J. Duffy  
Blooston, Mordkofsky, Jackson  
& Dickens  
2120 L Street, NW, Ste 300  
Washington, DC 20037

Susan M. Miller  
Alliance for Telecommunications  
Industry Solutions  
1200 G St., NW, Suite 500  
Washington, DC 20005

Lawrence C. St. Blanc  
Secretary  
Louisiana Public Service Commission  
P.O. Box 91154  
Baton Rouge, LA 70821-9154

James P. Tuthill  
John W. Bogy  
140 New Montgomery Street  
Room 1530-A  
San Francisco, CA 94105  
Attorneys for Pacific Bell  
and Nevada Bell

HAND DELIVERED\*\*

A handwritten signature in cursive script that reads "Stan Miller". The signature is written in dark ink and is positioned above a horizontal line.

Stan Miller